

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3838 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

PANDYA JASUBHAI RATILAL

Versus

RASULBHAI A VORA

Appearance:

MS MEGHA JANI for Petitioners

Mr. Ajay R Mehta, advocate for Respondent No. 3

CORAM : MR.JUSTICE S.D.SHAH

Date of decision: 10/09/97

ORAL JUDGEMENT

Admit. Learned counsel Mr. Ajay Mehta appears for respondent no. 3. Presence of respondent nos. 1 and 2 not needed for the purpose of deciding present First Appeal. The claimants who are the appellants before this Court are aggrieved by the

judgment and award passed by the Motor Accident Claims Tribunal (Auxiliary) of Kheda at Nadiad dated 19th January, 1995. The unfortunate victim of the vehicular accident was a child aged about 3 years at the time of her death. The appellants are the parents of the child and have claimed the total amount of compensation of Rs. 70,000/-. The Tribunal has however, awarded the amount of Rs. 29,000/- only with interest at the rate of 15% per annum from the date of the petition till the payment by the opponents and has also awarded proportionate costs. The further directions are issued as regards deposit of the said amount.

2. Ms. Megha Jani who appears for the appellants very vehemently contended before this Court that the Tribunal has been over-strict or miser in awarding the amount while computing services which the girl would have rendered to the parents between the age of 10 to 24 years, that being the age by which a female would ordinarily get married. For the period of 14 years, she would have rendered services to the aged parents and to compute her services at the rate of Rs. 50/- per month, is in every sense arbitrary and in the days of spiralling prices, more particularly for household services also to compute service at the rate of Rs. 50/- per month is unreasonable and arbitrary. According to her, it ought to have computed at higher rate and that full amount as claimed ought to have been awarded.

3. On the other hand, Mr. Ajay Mehta, learned counsel appearing for the third respondent has very vehemently submitted that the judgment and award of the Tribunal is within brackets and is not assailable at all in law, especially when the victim of the accident was, at the time of accident, aged about three years only and no guesswork could be made about her longevity and about prospect of services which would have been rendered by her to the parents. He has also submitted that to hold that a Brahmin girl would marry at very late age is not reasonable, so far as the villages are concerned.

4. Having given my anxious thought and consideration to the aforesaid rival submissions, one thing is certain that looking to the permissible age of marriage even for a female under the present law and looking to the fact that the female child if survives, would render services to the family and more particularly to the parents, it cannot be gainsaid that the Tribunal was rather miser in assessing services of the female child between 10 to 24 years at the rate of Rs. 50/- per

month. A female child rendering household services at different places in these days of spiraling prices would earn more than Rs.200/- per month, but in absence of any specific evidence in that regard and leaving some leeway for some guesswork, in my opinion, services of the female child between the age of 10 to 24 years could be assessed at Rs.150/- per month which would work out to further additional amount of compensation of Rs. 14,400/-. Thus, under the heading of loss of services of the minor female child, the Tribunal ought to have awarded the amount of Rs. 21,600/- as against which the Tribunal has awarded the amount of only Rs. 7,200/-. To the aforesaid extent, the judgment and award of the Tribunal is required to be modified and the Appeal is required to be allowed. The judgment and award of the Tribunal is modified to the aforesaid extent by awarding additional amount of Rs.14,400/-. The additional amount which is awarded by this Court alongwith costs and interest shall be deposited in a scheduled nationalised bank for a period of five years and interest thereof per year shall be permitted to be withdrawn by the parents, while the principal amount shall remain intact and shall be permitted to be withdrawn only after the fixed deposit receipt matures after five years. The appeal is allowed to the aforesaid extent.

(S.D.Shah,J)

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